

REMARKS

Claim Objections.

Applicant has amended claim 4 as suggested by the Examiner to overcome the Examiner's objection. Accordingly, Applicant respectfully requests withdrawal of the objection to claim 4.

Claim Rejections under 35 U.S.C. § 103.

Claims 1-7, 10, 13-15, 17-18, 21-22, 24-25 and 28-29 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,473,794 to Guheen ("Guheen") in view of U.S. Pat. No. 5,794,216 to Brown ("Brown"). Claims 1-7, 10, 13-15, 17-18, 21-22, 24-25 and 28-29 also stand rejected as obvious in light of U.S. Pat. No. 6,061,692 to Thomas ("Thomas") in view of Brown. Finally, claims 1-7, 10, 13-15, 17-18, 21-22, 24-25 and 28-29 stand rejected as obvious in light of U.S. Pat. No. 5,862,325 to Reed ("Reed") in view of Brown.

An invention is unpatentable under 35 U.S.C. § 103(a) ("Section 103") "if the differences between the subject matter sought to be patented over the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains."

To establish a *prima facie* case of obviousness, three criteria must be met. "First, there must be some suggestion or motivation . . . to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2142.

A "clear and particular" showing of the suggestion to combine or modify is required to support an obviousness rejection under Section 103. *Id.* For the reasons set forth below, Applicant

submits that the prior art fails both to teach or suggest all the claim limitations, and to clearly and particularly suggest Applicant's invention; thus, Applicant's claims are not obvious in view of the prior art references.

In rejecting Applicant's claims, Examiner has disregarded significant claim limitations of the present application, as amended. Indeed, Applicant's claims 1, 15 and 25 recite "data structures comprising . . . a physically accurate electronic model of said architectural structure that graphically and accurately depicts dimensional characteristics as well as contents of said architectural structure, displayable by said user interface." This recitation structurally defines Applicant's invention and distinguishes Applicant's invention from the prior art references cited. Indeed, it is well established that "a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." MPEP § 2106(IV)(B)(1)(a). In addition, "[i]f a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware *or hardware and software combination*, it defines a statutory product." MPEP § 2106(IV)(B)(2)(a) (emphasis added). Applicant finds no mention of the combination of hardware and software elements recited by the present application in the prior art cited, nor any equivalent thereof.

Guheen teaches a system, method and article of manufacture for planning the testing of components of an existing network framework. Specifically, Guheen provides that a pictorial representation of an existing network framework is displayed along with a plurality of components of the existing network framework. Thereafter, the components of the existing network framework are indicia coded in order to convey a plan by which the components of the existing network

framework are to be tested.

Brown, on the other hand, teaches a device for storing information about a plurality of houses, comprising a computer-readable storage medium and computer-readable data on the computer-readable storage medium. The computer-readable data is representative of a database containing textual information for each house, at least one exterior image for each house, at least one interior image for each house, and at least one parameter indicating a portion of the exterior image corresponding to the interior image for each house.

Neither Guheen nor Brown disclose nor suggest a physically accurate electronic model of an architectural structure that graphically and accurately depicts dimensional characteristics as well as contents of the architectural structure. Indeed, Guheen fails to disclose or suggest an electronic model of an architectural structure at all. Although Brown discloses a computer program that provides images of houses and accompanying textual information, Brown also fails to disclose a physically accurate electronic model of an architectural structure that can be selectively accessed to disclose specific information regarding dimensional characteristics or contents of the structure.

Further, neither Guheen nor Brown, nor a combination of the two, disclose or suggest electronic links integrated into the electronic model to provide selective access to information pertaining to the dimensional characteristics and contents of an architectural structure, as provided in independent claims 1, 15 and 25 of the present application. As discussed above, Guheen fails to disclose or suggest an electronic model of an architectural structure at all, and Brown is limited to providing select images of a house for the purpose of marketing the house to potential home buyers. Brown thus neither discloses nor suggests providing electronic links to access specific information pertaining to the dimensional characteristics and contents of an architectural structure.

Thomas and Reed both disclose variations on an electronic repository for storing information and providing simultaneous, limited authorized access to users based on each user's specific granted access rights. Neither reference, however, discloses nor suggests an electronic model of an architectural structure that acts as a selectively accessible electronic repository for specific information pertaining to dimensional characteristics and contents of an architectural structure. Thus, neither reference discloses nor suggests the present invention.

In light of the foregoing, Applicant respectfully submits that the inability of the cited references to produce Applicant's invention and the lack of any suggestion or motivation to combine or modify such art to produce Applicant's invention renders the present invention non-obvious in view of such references.

As claims 2-7, 10, 13-14, 17-18, 21-22, 24 and 28-29 depend from otherwise allowable subject matter, these claims are also not rendered obvious by the cited references under Section 103. Accordingly, Applicant respectfully requests withdrawal of the rejections of claims 1-7, 10, 13-15, 17-18, 21-22, 24-25 and 28-29 under Section 103.

Conclusion


Based on the foregoing, Applicant believes that the claims of the present invention are in condition for allowance and respectfully requests the same.

Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this application, the Examiner is invited to initiate a telephone interview with undersigned counsel.

DATED this 7 day of August, 2003.

Respectfully submitted,

KIRTON & McCONKIE


Michael F. Krieger
Attorney for Applicant
Registration No. 35,232

1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-4814
Facsimile: (801) 321-4893

AVN
692523.1